

U.S.S.N.: 10/707,173  
Response to Office Action dated November 15, 2005

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B-02-1231

### REMARKS

At the outset, Applicants submit herewith a copy of a new Power of Attorney for this application. Please associate this application with Customer No. 44702.

Claims 1-40 were pending in this application. Claims 41-43 have been added. New claim 41 is directed to the feature originally recited in claim 18. New claims 42 and 43 are directed to ultra-fine, submicron grain titanium or titanium-alloy articles produced by the procedures of independent claims 1 and 31.

With respect to the Examiner's interpretation of claim 14, Applicant agrees that the phrase "such as" should be given its broadest reasonable interpretation that encompasses other binary titanium compositions other than those specifically listed. Those specifically listed are merely two examples.

Claims 18 and 22 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has cancelled the wording "through an outlet or other method" from Claim 18. Claim 41 was added to include the outlet (*supra*). Thus, Claim 18 may be interpreted to include any method of removing. Claim 41 is specific to removing through an outlet.

Claim 22 has been amended to cancel the language "mechanically" to correspond to the wording of Claim 1.

Claims 1-40 are provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claims 1-16 and 20-22 of co-pending application 10/388,059. Applicant submits herewith a Terminal Disclaimer, mooting this rejection.

Claims 1-40 are provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claims 8-24 of co-pending application 10/982,338 in view of *Carter* (3,017,299) and *Shibue* (5,372,663). Applicant submits herewith a Terminal Disclaimer, therefore mooting this rejection.

Applicant submits that all of the grounds of rejection have been addressed and overcome. The application is now in condition for allowance and early notice thereof is solicited. Should the Examiner have any questions or comments which would place the application in better condition for allowance, he is respectfully requested to call the undersigned attorney.

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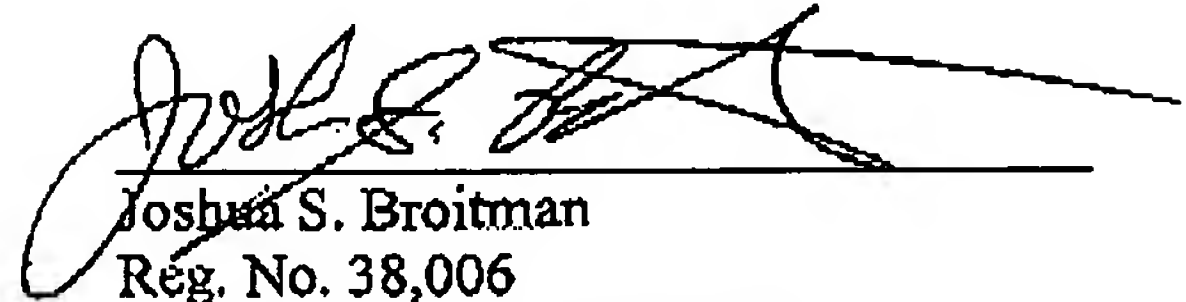
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Respectfully submitted,

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